

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ELIZABETH GRANADOS,
Plaintiff,
v.
BANK OF AMERICA, N.A., et al.,
Defendants.

Case No. [4:18-cv-05535-KAW](#)

**ORDER GRANTING EX PARTE
APPLICATION FOR TEMPORARY
RESTRAINING ORDER; ORDER TO
SHOW CAUSE**

Re: Dkt. No. 19

On May 24, 2019, Plaintiff Elizabeth Granados filed an ex parte application for temporary restraining order to enjoin the sale of the subject property, located at 90 Madera Court, Danville, CA 94526, which is scheduled for Trustee's Sale on May 29, 2019. (Pl.'s Appl., Dkt. No. 19-1 at 1.) The sale was initiated by Defendant J.P. Morgan Chase, despite the case being stayed, based on a stipulation signed by the parties, so that Plaintiff's loan modification application could be reviewed. (*See* Stipulation, Dkt. No. 17.)

Chase filed an opposition on May 24, 2019, stating that it had denied Plaintiff's loan modification application on April 10, 2019, and Plaintiff timely filed her appeal on May 8, 2019. (Defs.' Opp'n, Dkt. No. 20 at 1-2.) On May 20, 2019, Chase denied Plaintiff's appeal, and emailed a copy of the denial to Plaintiff's counsel on that same date. (Defs.' Opp'n at 2; Decl. of Dylan Hale, Dkt. No. 20-1 ¶ 3, Ex. B.)

Under the California Homeowner Bill of Rights, Chase is precluded from conducting a trustee's sale within 15 days of the denial of the appeal. Cal. Civ. Code § 2923.6(e)(2). Thus, even if the denial was issued on May 20, 2019, Chase would not be permitted to sell the subject property until after June 4, 2019. *See id.* There is also a question of whether Defendants impermissibly dual-tracked Plaintiff during the review process, as the undersigned does not know

1 when the Notice of Trustee's Sale was recorded. *See* Cal. Civ. Code § 2923.6(c) (2019) (cannot
2 record a notice of sale while the first lien loan modification application is pending); *see* Cal. Civ.
3 Code § 2924.11(a)¹ (2018) (same); *see also* Pl.'s Appl. at 1.

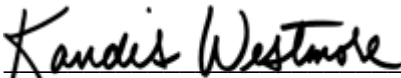
4 Accordingly, Defendants, their employees, agents and/or any other person or entity acting
5 with them or on their behalf are TEMPORARILY RESTRAINED and ENJOINED from selling
6 the property located at 90 Madera Court, Danville, CA 94526.

7 Furthermore, the Court issues an ORDER TO SHOW CAUSE to Defendants to address
8 whether the Notice of Trustee's Sale was recorded while the case was stayed pending review of
9 Plaintiff's loan modification application, and, if not, when it was recorded. Defendants shall also
10 address why they apparently violated the Homeowner Bill of Rights in seeking to conduct a
11 trustee's sale within 15 days of denying Plaintiff's appeal. Defendants shall file a response to this
12 order by June 3, 2019.

13 A case management conference is scheduled for July 2, 2019. The joint case management
14 statement is due on or before June 25, 2019, and, in addition to the information required, the
15 parties shall provide a proposed briefing schedule for Plaintiff's motion for preliminary injunction.

16 IT IS SO ORDERED.

17 Dated: May 28, 2019

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KANDIS A. WESTMORE
19 United States Magistrate Judge
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28 ¹ The Court notes that Plaintiff erroneously cites to this section of the Civil Code, which was
renumbered effective January 1, 2019.